

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 522 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

No

MANAGING TRUSTEE-SARVA MANGAL EDUCATION TRUST

Versus

STATE OF GUJARAT

Appearance:

Shri A.J. Patel, Advocate, for the Petitioner

Shri M.R. Anand, Government Pleader and Senior
Counsel, with Shri T.H. Sompura, Assistant
Government Pleader, for the Respondents

CORAM : MR.JUSTICE A.N.DIVECHA

Date of decision: 13/09/96

ORAL JUDGEMENT

It is unfortunate that the direction given by
this Court as early as on 23rd March 1989 while disposing
of Special Civil Application No. 9 of 1989 for disposal
of the petitioner's application for allotment of land
bearing Final Plot No. 509 in Nava Wadaj Town Planning

Scheme No. 28 (the disputed land for convenience) within one month from its date is still not complied with with even after passage of nearly 7 1/2 years. It is even more unfortunate that the affidavit-in-reply in this case was affirmed as early as on 27th March 1992 declaring that the application for allotment of the disputed land made by the petitioner has remained pending for consideration and even more than 4 1/2 years thereafter it is still not disposed of.

2. It is not necessary to set out in detail the facts giving rise to this petition. It may be sufficient to note that the petitioner filed Special Civil Application No. 9 of 1989 against the decision for allotment of land bearing Final Plot No. 509 in favour of Jyoti Sangh. That application was disposed of by this Court on 23rd March 1989 enabling the petitioner to apply for allotment of the disputed land in its favour. This Court directed the Collector of Ahmedabad (respondent No.2 herein) to dispose of that application within one month from the date of its receipt. Its copy is at Annexure C to this petition. Pursuant thereto, the petitioner appears to have made its application for allotment of the disputed land on 16th April 1989. Its copy is at Annexure D to this petition. It has still not been disposed of. The petitioner has thereupon approached this Court by means of this petition for a writ of mandamus directing the respondents to dispose of its application at Annexure C to this petition forthwith.

3. Unfortunately for the petitioner this petition has also remained pending in this Court for nearly 4 1/2 years. The affidavit-in-reply clearly shows that it has remained pending with the Government for nearly 3 years. It is now time that its fate is decided as expeditiously as possible. It may be noted that the petitioner has come with a case that in what was popularly known as 'lok darbar' the concerned Minister on 28th October 1989 declared grant of the disputed land in favour of the petitioner. The intimation of 16th October 1989 directing the petitioner to remain present at the relevant time is at Annexure E to this petition. That would support the petitioner's say in that regard. Besides, this factual position has not come to be controverted by or on behalf of the State Government in any manner. If that be so, only a formal order of allotment of the disputed land in favour of the petitioner might only be required to be passed. Be that as it may, it is necessary that the fate of the petitioner's application for allotment of the disputed land is decided as expeditiously as possible preferably within six weeks from the date of receipt of the writ in

this case.

4. It may be clarified at this stage that on instructions from one official from the office of respondent No.2 who is stated to be present in the court-room, the learned Government Pleader informs this Court that additional information received from the petitioner has also been forward to the Government for taking decision on the allotment of the disputed land in favour of the petitioner. In that case, there should not remain any hitch or hindrance in deciding the fate of the application.

5. In the result, this petition is accepted. A writ of mandamus is ordered to be issued to the State Government (respondent No.1 herein) directing it to decide the petitioner's application for allotment of the disputed land as expeditiously as possible but in any case latest within six weeks from the date of receipt of the writ in this case. Rule is accordingly made absolute with no order as to costs. Direct service is permitted.
